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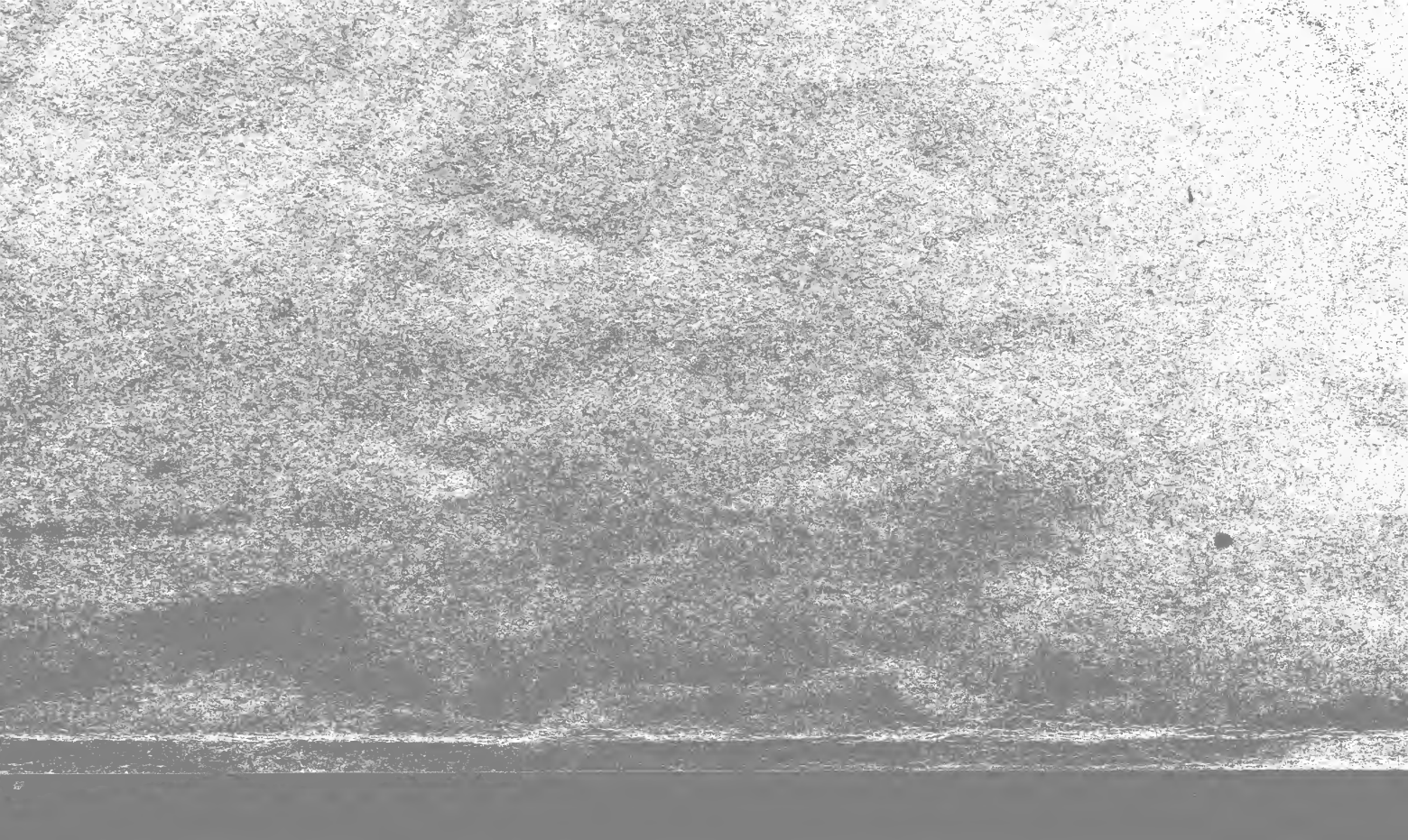

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The Great Question for the People!

ESSAYS

ON

THE ELECTIVE FRANCHISE;

OR,

WHO HAS THE RIGHT TO VOTE?

BY

JOHN HANCOCK,

COUNSELLOR AT LAW.

PHILADELPHIA:
MERRIHEW & SON, PRINTERS,
No. 243 Arch Street, below Third St.
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"The right which is exercised by the citizens at large, in voting at elections, is one of the most important rights; and in a Republic ought to stand foremost in the estimation of the law. It is a right by which we exist as a *free people*."—ALEXANDER HAMILTON.

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Entered according to Act of Congress in the year 1865, by
JOHN HANCOCK,
in the District Court of the Eastern District of Pennsylvania.

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INTRODUCTION.

THE subject of these few pages is of itself of the highest importance. To no people on earth can it be destitute of interest; and to ourselves at this time it may well take precedence of all others.

The stiff phrase "elective franchise" means the *right of choice*, and a moment's reflection will show us that those who choose the rulers are the virtual governors; and thus the question, "Who shall vote?" resolves itself into the question, "Who shall rule?" If ever a grave theme came before an earnest people, this is one. We shall need all the discoveries of former time, and all the wisdom of our own, to do it justice; and even with all these, we may deferentially exclaim, "Who is sufficient for this thing!"

But while thus impressed with our great responsibility, let us not forget that cowardice is no element of safety. We have not officiously gone out of the beaten track of duty to meddle with this matter. It lies full before us, and will allow of no evasion. The stern necessity of present consideration lies upon us,—the grand panel of the nation,—the present voters of our great republic; and the sacrificed dead and the helpless living unite to remind us in loving earnestness, "for this end were ye born!"

The author, in his search for precedents, has gleaned from the whole field of the past. Greece and Rome, and all the intervening governments send their tributes of experience. Our European fathers are brought to the witness-stand, and after them appear our own wise men from PATRICK HENRY down to EDWARD EVERETT. The amount of valu-

able testimony here condensed is very great, and could not be attained otherwise without much time and expense. We here have the voice of the wise and good speaking to us in grand harmony, and just at the time when the counsel is needed.

We are called upon to fix, or at least to initiate, a new order of things for half a continent! We have uprooted the Thistle and Jamestown weed from the Southern soil; how and with what shall we plant it anew? We find society there actually made up of extremes—of white men and black men alike unfit for responsibility and trust! What fearful materials of which to build the great temple of peace and safety! Of the former dynasty we have as much to deplore as to remember; not a charred beam from the old building will serve us for the new! The former structure as a whole was a warning, and its details each a separate disgrace. The mangled ruins around which EZRA gathered the remnant of Israel, were a good assortment of stone and timber compared with those among which we now walk in the South at once in sorrow and anger.

Shall we then call the former architects to build for us? They set their own house upon shifting sands and made it lean so as to fall upon ours! They had laws to produce and protect crime through a few generations, and to ensure ruin of the whole State at the last. What they have suffered and what we have barely escaped should make us careful for ever.

Whatever else is doubtful, this is clear,—our Rebel leaders must never return to power. However we may pass over their forfeited lives, perpetual banishment from citizenship is theirs. Better leave the field in continual fallow, than gather again the tares and *cheat* as bread for the nation. If the loyal black *may* not yet vote, the rebel white *must* not,—"Be just and fear not," is the true watchword of the day.

CHAPTER I.

Grecian and Roman customs of Representation and mode of Voting—Cause of their downfall—English Nation during the Feudal Age—Magna Charter—Frequency of elections under William III. and Charles II—Elections in Ireland—Representation in the British American Colonies.

AMONG all the absorbing questions of the day now discussed, relative to the future policy and well-being of the American Republic, there is no one that is paramount to that of the rights and privileges which belong to the people in their individual political capacities; particularly since the recent abortive attempt to overthrow the Government of the Nation has had the effect to change, very materially, the character and political capacities and rights of a large class of the community who, heretofore, have been debarred, except incidentally, of those rights which have been confined, as a general rule, to the privileged classes.

As precedents, however, as well as interesting matters of history, before entering directly upon the subject in question, we shall cite those of ancient Greece and of Rome, as well as that of the more modern Kingdom of Great Britain—from which our ancestors undoubtedly borrowed much of the system upon which our own is based,—as examples of the dangers and disorders which have arisen from the earliest periods down even to the present hour, from the abuse of the political powers entrusted to the general populace, as well as the too great abridgment of their undoubted rights and privileges.

The ancient Greeks and Romans had but very imperfect notions of the value of representation; the number and power of their popular assemblies were so great and so liable to disorder, as to render it a provident measure with them to be guarded in diffusing the privileges of free citizens. Not a tenth part of the people of Athens were admitted to the privileges of voting

in the assemblies of the people, and, indeed, nine-tenths of the inhabitants throughout all Greece were slaves.

During the most flourishing period of the Athenian Democracy, every citizen of the age of eighteen had a right to hold office, and to give a vote at the assemblies of the people. The most crowded assemblies rarely exceeded 8000, though Attica contained 20,000 citizens. All were reckoned citizens whose parents were such. To assume unlawfully the rights of a citizen was punished by being sold into slavery. The assemblies of the people were convened by magistrates, and the chairman or president presided at them, and proposed the subject to be discussed, and had the bills, which had been previously prepared and sanctioned by the senate, (for the fundamental law allowed none others to be considered,) recited, and gave permission to the orators to speak, though the liberty of addressing the people on the subject was open to all. The chairman also put the question to vote, whether to adopt or reject the proposition. The assembly had the right to vary or alter it. The people generally voted by show of hands, and sometimes by ballot. They voted by tribes (of which there were ten,) but a majority of the whole assembly, collectively, decided.

It was owing to this system of assembling the people in masses, and not by representation, to make laws; and from a want of well-defined and distinctive departments, that that celebrated Republic terminated its career in anarchy and despotism.

So, also, in ancient Rome, no tests of property or character were required; and as the people assembled within the walls of that City in immense masses, not merely to vote, but to make laws, it produced the utmost anarchy and corruption, and has justly been regarded as precipitating the fall of that Commonwealth. The Roman slaves were not represented, and Rome exercised the right of absolute sovereignty over the dominions of its auxiliaries. The Roman citizens, who exclusively exercised as voters the power of government, bore, therefore, a very small proportion in numbers to the gross amount of inhabitants. The Roman mode of passing laws, and voting, was under great checks, during the best period of the Government. When a law was proposed and discussed, the people proceeded to vote. The origi-

nal mode of voting was *viva voce*, but at a later period it was by ballot, and applied equally to the election of magistrates, to public trials, and to making and repealing laws. The people were made to pass over a narrow plank into an enclosure, where certain officers delivered to every voter two tablets, one for and one against the proposition, and each person threw into a chest which of them he pleased, and they were pointed off, and the greatest number of points either way determined the sense of the voice of the whole people, who either passed or rejected the law.*

The English nation, during the Feudal Age, enjoyed the blessings of popular representation, and the knights, citizens and burgesses were intended to represent the farmers, merchants and manufacturers, who composed the several orders and classes of people of which the nation was composed.† But the mutations of time and commerce, says Justice KENT, in depopulating ancient boroughs, and in establishing new cities, and great manufacturing establishments, without any direct parliamentary representation, changed the structure of the House of Commons, and rendered it, in theory at least, a very inadequate and imperfect organ of the will of the nation. But, notwithstanding the great imperfections, at this early period, of the constitution of the English House of Commons, nevertheless, in all periods of English History, it felt strongly the vigor of the popular principle.

While on the Continent of Europe the degeneracy of the feudal system, the influence of the Papal hierarchy, the political maxims of the imperial or civil law, and the force of standing armies, extinguished the freedom of the Gothic Governments, and abolished the representation of the people; the English House of Commons continued to be the asylum of European liberty. And when we take into consideration the admirable plan of their judicial polity, and those two distinguished guardians of civil liberty, trial by jury, and the freedom of the press, it is no longer a matter of astonishment that the nation, in full possession of these inestimable blessings, should enjoy greater security of person and property than was ever enjoyed in Athens or

*Mitford's Greece, vol. i. p. 354, 357. Kent's Com., vol. i. part 2, p. 232.

†1 Blackstone's Commentaries, p. 174.

Sparta, Carthage or Rome, or in any of the commonwealths of Italy during the period of the middle ages.

Agreeably to the English historians there existed no deliberative legislative assembly in England prior to the reign of Henry III., which was the era of the establishment of *Magna Charta*, and the introduction of popular representation in England, and of the establishment of the House of Commons, in the time of Henry III. and Edward I. By its provisions no taxation was to be imposed but by Parliament, which was to consist of the higher clergy and nobility, and the tenants of the chief under the crown.

Under the reform acts and down to the present period, the names of electors are required to be registered and to possess certain property qualifications.

The scheme of representation, as a substitute for a meeting of the citizens in person, being but imperfectly known, it is in more modern times that we are to expect examples more instructive and analogous to our own particular case.

The history of this branch of the English Constitution, anterior to the date of Magna Charta, is too obscure to yield instruction. The very existence of it has been made a question among political antiquarians. The earliest records of subsequent date prove that Parliaments were to *sit* only every year, not that they were to be *elected* every year. And even these annual sessions were left so much at the direction of the monarch that, under various pretexts, very long and dangerous intermissions were often contrived by royal ambitions. To remedy this grievance, it was provided by a statute, in the reign of Charles II., that the intermission should not be protracted beyond a period of three years. On the accession of William III., when a revolution took place in the Government, it was declared to be among the fundamental rights of the people that Parliaments ought to be held frequently; and under Charles II. it was expressly enacted that a new Parliament shall be called within three years after the determination of the former.* From these facts it appears that

* For an interesting history of this subject see Blackstone's Com., vol. i. chap. ii. p. 145.

the greatest frequency of elections which has been deemed necessary in that Kingdom, for binding the representatives to their constituents, does not exceed a triennial return of them.

Elections in Ireland were formerly regulated entirely by the discretion of the Crown, and were seldom repeated, except on the accession of a new prince, or some other contingent event. The Parliament which commenced with George II. was continued through his whole reign, a period of about thirty-five years. The only chance for representation by the people consisted in the right of the latter to supply occasional vacancies by the election of a new member, which death or some other event might render a new election necessary.

What effect may have been produced by these partial reforms, the example of Ireland can throw but little light upon the subject; and the conclusion may be drawn, that if the people of that country have been able, under all these disadvantages, to retain any liberty whatever, the advantage of biennial elections would secure to them every degree of liberty, which might depend on a due connexion between their representatives and themselves.

In the British-American Colonies, the principle of representation was established in one branch of the Legislature, but the periods of election varied from one to seven years.

The right of representation in Parliament, it will be recollected, was among the causes which led to the dissatisfaction of our colonial ancestors to the mother-government, and the final separation from British rule.

CHAPTER II.

Equal Suffrage among the States an exceptional part of the Confederation—Opinion of Hamilton—Definition of Right of Suffrage—Difference of Opinion between Hamilton and Madison—Right of Suffrage under the First Continental Congress—Origin of the Three-Fifths Apportionment.

HAVING thus briefly traced, from the earliest periods, the origin and operations of the "Right of Suffrage," or "Elective Franchise," as it is also sometimes called, we are brought

down to that interesting cycle in political economy which is the more immediate subject for our own investigation,—viz.: the American "Right of Suffrage."

"The right of *equal* suffrage among the States was an exceptionable part of the Confederation. Every idea of proportion, and every rule of fair representation," said Mr. HAMILTON, "conspire to condemn a principle which gave to the smaller States an equal power with the larger. Although the States may be of a majority, yet, at the same time, may not contain one-half of the number of inhabitants of the minority. At that period, the States of New Hampshire, Rhode Island, New Jersey, Delaware, Georgia, South Carolina, and Maryland were a majority of the whole number of States, but they did not contain one-third of the people.

"Under such circumstances, if the States, in their sovereign capacity, should control the electoral vote instead of the people, only one-third of the people would be represented.

"That the larger States would acquiesce in the privation of such an unequal importance of their political power, it would neither be rational to expect nor just to require of them."*

The rule of suffrage adopted by the First Continental Congress was one of necessity, for the reason that it was impossible to ascertain the relative importance of each Colony. The members being only an assembly of committees of one from each of the Colonies, called together to deliberate how each could aid the other in obtaining redress of grievances from Parliament and the Crown.

The character of the government under the Articles of Confederation was, that each State should have an equal voice with every other. In order to nationalize the government, it was necessary that this system should be changed, so that the relative population of the several States should be properly represented. This gave rise to much discussion and opposition from the smaller States.

The question was, upon what basis this representation should be placed, whether it should be confined to those on whom some of the States had conferred the elective franchise; or, whether it should include white inhabitants only, or free inhabitants of other races, excluding slaves; or, whether it should embrace the

* Federalist, No. XXII. page 184.

whole population of each State. To have adopted this last mode of representation in the National Legislature, it would have consisted of one presenting great inequalities.

The elective franchise had been conferred in the different States upon very different principles, according to their peculiar policy and manners. These inequalities could scarcely have been removed; for the right of suffrage in some States was more or less connected with their systems of descent and distribution of property, and those systems could not readily be changed, so as to adapt the condition of society to the new interest of representation and influence in the general government. This plan was therefore out of the question.

It was nearly impracticable to confine the basis of representation to the white inhabitants of the States, for the reason that some of the States, where slavery had become extinct, contained a large number of free blacks, who were regarded as citizens in some of these States, which contributed to increase the aggregate numbers and wealth of the State, and thus to raise its scale of relative rank—but not so in the Slave States. A State containing several thousand of these inhabitants might well say, that, although a distinct race, they formed too large a portion of its free population to be omitted without inquiries into the condition and importance of other classes of its free inhabitants.

It was equally impracticable to form a national government in which the basis of representation should be confined to the free inhabitants of the States. The five States of Maryland, Virginia, North Carolina, South Carolina, and Georgia, including their slaves, were found by the first census, taken three years after the formation of the Constitution, to contain a fraction less than one-half of the whole population of the Union.* In three of those States the slaves were a little less than half, and in two of them they were more than half as numerous as the whites. There was no good reason, therefore, except the theoretical one that a slave can have no actual voice in government, and does not need to be represented—why a class of States containing nearly half of the whole population of the

* They contained 1,793,407 inhabitants; the other eight States had 1,845,595, when the Federal census of 1790 was taken.

Confederacy should consent to exclude such large masses of their population from the basis of representation, and thus give to the free inhabitants of each of the other eight States a relatively larger share of legislative power than would fall to the free inhabitants of the States thus situated. It became necessary, therefore, to regard the peculiar social condition of each of the States, and to construct a system of representation that would place the free inhabitants of each distinct State upon as near a footing of political equality with the free inhabitants of the other States as might, under such circumstances, be practicable. This could only be done by treating the slaves as an integral part of the population of the States in which they were found, and by assuming the population of the States as the true basis of their relative representation.

It was upon this idea of treating the slaves as inhabitants, and not as chattels, or property, that the original decision was made in the committee of the whole, by which it was at first determined to include them. Having decided that there ought to be an equitable ratio of representation, the committee went on to declare that the basis of representation ought to include the whole number of white and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years; and they then added to the population thus described, three-fifths of all other persons not comprehended in that description, excepting Indians not paying taxes.

The proportion of three-fifths was borrowed from a rule which had obtained the sanction of nine States in Congress in the year 1783, when it was proposed to change the basis of contribution by the States to the expenses of the Union from property to population. At that time, the slave-holding States had consented that three-fifths of their slaves should be counted in the census which was to fix the amount of their contribution; and they asked that, in the apportionment of representatives, these persons might still be regarded as inhabitants of the State in the same ratio.*

"The definition of the right of suffrage, is very justly regarded as a fundamental article of republican government. It was in-

*Curtis's Hist. Constitution, vol. ii. pp. 35 to 49.

cumbent on the Convention, therefore, to define and establish this right in the Constitution. To have left it open for the occasional regulation of the Congress, or to have submitted it to the legislative discretion of the States, would have been equally improper. For the reason that it would have left that branch of the federal government too dependent on the State governments, which ought to be dependent on the people. The provision made must be satisfactory to every State as well as safe to the United States; because, being fixed by the State constitutions, it is not alterable by the State governments, and it is not to be feared that the people of the States will alter their Constitutions, so as to abridge the rights secured to them by the Federal Constitution.*"

"A share in the sovereignty of the State, which is exercised by the citizens at large, in voting at elections," wrote Mr. HAMILTON, "is one of the most important rights of the subject; and in a Republic ought to stand *foremost* in the estimation of the law. *It is a right by which we exist as a free people.*† The qualifications both of *the electors* and the *elected* ought to be *fundamental in a republican form of government*, not liable to be varied or added to by the Legislature, and they should forever remain where the Constitution left them."‡

The theoretical opinions of Mr. HAMILTON upon this subject were directly in conflict with those of Mr. MADISON, whose birth and education was in a planting State which limited the suffrage to persons having an interest in real estate. Mr. MADISON held that "the free-holders of the country would be the safest depositories of American liberty." Mr. HAMILTON, on the contrary, who entertained more enlarged views, sought to organize a system by which all the great powers should be derived from the body of the citizens: "the only theory," said he, "consistent with the natural and constitutional rights of a free people."

*Federalist, No. LII. pp. 403, 404.
†Hamilton's Works, ii. p. 315.
‡Hist. Rep. iii. 207.

CHAPTER III.

Elective Franchise in the General and the State Governments—Frequency of Elections—Opinion of Hamilton—Extent of power and extent of Territory considered—Madison on stability of Government—Evils of too frequent changes.

HAVING defined the fundamental principles upon which the elective franchise should be based, and its defects under the Confederacy, we will next consider in what manner it is exercised under the present Constitution, in the General and State Governments.

First. As to the frequency of elections.

"As it is essential to liberty," writes Mr. HAMILTON, "that the government in general should have a common interest with the people; so it is particularly essential, that the branch of it under consideration should have an immediate dependence on, and an intimate sympathy with the people. Frequent elections are unquestionably the only policy by which this dependence and sympathy can be effectually secured. But what particular degree of frequency may be absolutely necessary for the purpose, does not appear to be susceptible of any precise calculation—and must depend on a variety of circumstances, with which it may be connected. Let us consult experience, the guide that ought always to be followed, whenever it can be found.

* * * * * * *

"Have we any reason to infer from the spirit and conduct of the representatives of the people, prior to the revolution, that biennial elections would have been dangerous to the public liberties? The spirit, which every where displays itself, at the commencement of the struggle, and which vanquished the obstacles to independence, is the best proof that a sufficient portion of liberty had been every where enjoyed, to inspire both a sense of its worth, and a zeal for its proper enlargement. This remark holds good, as well with regard to the then colonies, whose elections were least frequent, as to those whose elections were frequent. Virginia was the colony which stood first in resisting the parliamentary usurpation of Great Britain; it was the first also in espousing, by public act, the resolution of independence. In Virginia, nevertheless, if I have not been misinformed, elections under the former government were septennial. This par-

ticular example is brought into view, not as a proof of any peculiar merit, for the priority in those instances was probably accidental; and still less of any advantage in *septennial* elections, for when compared with a greater frequency, they are inadmissible; but merely as a proof, and I conceive it to be a very substantial proof, that the liberties of the people can be in no danger from *biennial* elections." (Federalist, No. LII. 404—407.)

The extent of the power that is to be conferred, and the extent of the territory in which that power is to be exercised, are subjects to be considered, with the frequency of elections.

In the separate States themselves, where the Capitol of the State is situated at a convenient distance to the members of the Legislature, and where the extent of the territory is limited and does not require a very extended power, the frequency of the elections would not be so objectional, as they would where greater power and greater distances exist. Therefore, such shorter period of time—generally one year—have been fixed by the States themselves, as best suited their convenience and policy.

Besides, where the laws are uniform throughout the State, and the general affairs are not much diversified, it is presumed that all the citizens are more or less acquainted with them, and that they occupy much of the attention of all classes of the people.

When we consider the General Government, however, in respect to the frequency of elections, it presents quite a different aspect. The local laws are so far from being uniform that they vary in every State; whilst the public affairs of the Union are spread throughout a very extensive region, and are extremely diversified by the local affairs connected with them, and can with difficulty be correctly learned in any other place than in the central councils, to which a knowledge of them will be brought by the representatives of every part of the country.

In regard to the extent of the Union and the distance from the several States to the capitol of the nation, any former objections that may have been brought, or inconveniences experienced by the members of Congress, are being constantly lessened by the great "annihilators both of time and distance,"—the steamboat and railroad.

Relative to the frequency of elections, therefore, in the National Government, the danger lies in other directions.

"It is a misfortune, inseparable from human affairs," says Mr. MADISON,* "that public measures are rarely investigated with that spirit of moderation which is essential to a just estimate of their real tendency to advance, or obstruct, the public good; and that this spirit is more apt to be diminished than promoted by those occasions which require an unusual exercise of it."

* * * * * * *

"The genius of republican liberty seems to demand on one side, not only that all power should be derived from the people, but that those entrusted with it should be kept in dependence on the people, by a short duration of their appointments; and that even during this short period, the trust should be placed not in a few, but in a number of hands. Stability, on the contrary, requires that the hands in which power is lodged should continue for a length of time the same. A frequent change of men will result from a frequent return of elections; and a frequent change of measures from a frequent change of men; whilst energy of government requires not only a certain duration of power, but the execution of it by a single hand."

After an experience of nearly one century, it is found that one of the most serious evils that have existed in the operations of the General Government,—and tended as much towards its destruction as any other,—has arisen from the too limited period of the President's term of office and too frequent elections. Such has become the rage for *party* measures, that so soon as a President of the Republic is inaugurated, and a new epoch in the national administration commenced, it is made the starting-point for schemes of opposition and for seeking its overthrow.

These constant changes in the executive department have tended to keep the whole country in a constant state of excitement and instability; affording to designing demagogues (wire-pullers) opportunities for continued party agitation, and to the corrupt seekers of power and place, means to carry out their designs for pillaging the national treasury and robbing the country of its government resources in all its various departments; which evils could be remedied by longer terms of the executive

* Federalist, No. XXXVII 282—285.

administration, with vigilant surveillance over all these several departments, thus holding forth less inducements for political intrigue.

One of the greatest safe-guards of government rests upon those into whose hands its administration falls.

Although the executive department of the United States may be of long duration, yet, as the legislative department meet annually for the supervision of the affairs of all the different departments of the National Government, and the members of Congress come from every part of the Union, having different interests, and composed of different party influences, there is but little opportunity for abuse of power to any great extent in the executive department.

Therefore, should the President be elected for a term of longer duration, it would have a tendency towards further establishing the stability and tranquillity of the Government, and abridge the inducements for corruption and misrule than the shorter terms that now prevail; at the same time, it would lessen the evils of political party organizations, which are the constant disturbers of the national tranquillity.

Notwithstanding any designs on the part of the President himself, or any intrigues or corruptions that may exist in his cabinet councils, either to destroy the Government, or misdirect its powers, or exhaust its treasury, with the numerous checks by which they are surrounded, a long period of his administration would afford much less inducement and be much more likely to detect any such existing evils.

"In republics," says Mr. HAMILTON, "persons elevated from the mass of the community, by the suffrages of their fellow-citizens, to stations of great pre-eminence and power, may find compensations for betraying their trusts. Hence it is, that history furnishes us with so many mortifying examples of the prevalency of corruptions in republican governments. How much of this contributed to the ruin of the ancient commonwealths, has already been disclosed."*

* Federalist, page 190.

Our own republic may not now inaptly be cited, in the future pages of history, as affording instances of betrayed trusts.

CHAPTER IV.

Of the Members of Congress and their Qualifications—Hamilton's Opinion of their Competency—Remarks of Justice Story.

THE next subject for important consideration is the character and competency of the member of Congress, to whom is entrusted the supervision of the general affairs of the nation, as well as the construction of new laws and regulations.

Independent of a thorough knowledge of the United States Constitution, he should possess not only a knowledge of the Constitution and laws of his own State, but also of those of all the other States. For he is not sent to legislate for his own State alone, but for the welfare of the whole Union. He should possess also some knowledge of the foreign affairs of the country and the law of nations, so as to be able to act understandingly upon questions of commercial policy and treaties, which are among the leading objects of the national administration.

The great object of the electors, then, should be to obtain for rulers men who possess the wisdom to discern, and the virtue to pursue, the common good of the country; and next, to take the most effectual precautions for keeping them virtuous, whilst they continue to hold their public trust. This precaution should consist in such a limitation of the term of appointment as will secure a proper responsibility to the people.

From all past experience, however, it may be safely asserted that a large number of the members are sent to this branch of the government for party purposes, and in order to secure into their own hands the controlling power, the emoluments of office, and the seizure of the Treasury of the nation.

What language more appropriate for this place than that of the late Justice STORY, upon the subject of the neglect of the people to watch and guard the true interests of the republic, and the appointment of proper persons to offices of responsibility and trust.

"America," said he, "free, happy and enlightened as she is, must rest the preservation of her rights and liberties upon the virtue, independence, justice and sagacity of her people. If either fail, the republic is gone. Its shadow may remain with all the pomp and circumstance, and trickery of government, but its vital power will have departed.

"In America the demagogue may rise as well as elsewhere. He is the natural growth of republics; and like the courtier, he may by his blandishments delude the ears and blind the eyes of the people to their own destination. If ever the day shall arrive, in which the best talents and the best virtues shall be driven from office by intrigue or corruption, by the ostracism of the press, or the still more unrelenting persecution of party, legislation will cease to be national. It will be wise by accident and bad by system.

"It is in vain that statesmen shall form plans of government, if the inhabitants suffer the silent power of time to dilapidate its walls, or crumble its massy supporters into dust, if the assaults from without are not resisted, and the rottenness and mining from within are never guarded against. Who can preserve the rights and liberties of the people when they shall be abandoned by themselves? Who shall keep watch in the temple when the watchmen sleep at their posts? Who shall call upon the people to redeem their possessions, and revive the republic, when their own hands have deliberately and corruptly surrendered them to the oppressor, and have built the prisons and dug the graves of their own friends? This dark picture, it is to be hoped, will never be applicable to the Republic of America. And yet it affords a warning, which, like all the lessons of past experience, we are not permitted to disregard."

The people of the nation, as well as the friends to American liberty throughout the world, have just cause for thanks to Him who is the governing power of all empires and kingdoms, and for congratulation to themselves that the Union, through the virtue and patriotism of its citizens, has been happily rescued from the impending brink of ruin by which it has so recently been threatened; that the dark picture, portrayed in the warning language of this eminent patriot, has vanished from view, and his fondest hopes for the preservation of the institutions of the country,—for which he seemingly entertained some misgivings,—bid fair to be realized.

CHAPTER V.

Who are citizens of the United States?—Opinion of Justice Curtis in case of Dred Scott—Constitution of Massachusetts, New Hampshire, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia and North Carolina, relative to Negro Suffrage—Opinion of Judge Gaston, State v. Manuel.

HAVING thus briefly traced the "right of suffrage" from its origin, and examined its powers in the several States—the frequency of elections, etc., we shall now consider the classes of citizens to whom this right constitutionally belongs.

The first question that arises under this head is—Who are *citizens* of the United States?

The whole of this important subject was very ably discussed in the late case of *Dred Scott* v. *Sanford*, in which case both Justices McLane and Curtis dissented from their associate Justices. The truly patriotic stand which those eminent jurists maintained in that noted case, so vital to the interests and welfare of that class of our citizens whose change of condition to free men has placed them on an equal footing with the white population, bids fair to more fully develope the soundness of the doctrines upon which they based their opinions.

The remarks of Mr. Justice CURTIS on that occasion, covering the whole ground, are embraced in the following quotations:

"One mode of approaching this question is, to inquire who were citizens of the United States at the time of the adoption of the Constitution.

"Citizens of the United States at the time of the adoption of the Constitution can have been no other than citizens of the United States under the *Confederation*. By the Articles of Confederation a Government was organized, the style whereof was, 'The United States of America.' This Government was in existence when the Constitution was framed and proposed for adoption, and was to be superseded by the new Government of the United States of America, organized under the Constitution. When, therefore, the Constitution speaks of citizenship of the United States existing at the time of the adoption of the Constitution, it must necessarily refer to citizenship under the Government which existed prior to and at the time of such adoption.

"Without going into any question concerning the powers of Confederation to govern the territory of the United States out

of the limits of the States, and consequently to sustain the relation of Government and citizen in respect to the inhabitants of such territory, it may safely be said that the citizens of the several States were citizens of the United States under the Confederation.

"That Government was simply a confederacy of the several States, possessing a few defined powers over subjects of general concern, each State retaining every power, jurisdiction and right, not expressly delegated to the United States in Congress assembled. And no power was thus delegated to the Government of the Confederation, to act on any question of citizenship, or to make any rules in respect thereto. The whole matter was left to stand upon the action of the several States, and to the natural consequence of such action, that the citizens of each State should be citizens of that Confederacy into which that State had entered, the style whereof was, 'The United States of America.'"

As we remarked in the commencement of our present subject, recent events in the history of our country having materially changed the political condition of a large class of the colored population, by the extinction of slavery, who have heretofore been debarred of the rights of suffrage—excepting by the system of *proxy* adopted under the Constitution—the important question for solution now remains, what is to be their future status relative to those rights belonging to citizens? or whether the negro is, in fact, a citizen of the United States?

"To determine whether any free persons, descended from Africans held in slavery, were citizens of the United States under the Confederation, and, consequently, at the time of the adoption of the Constitution of the United States," continues Justice CURTIS, "it is only necessary to know whether any such persons were citizens of either of the States under the Confederation at the time of the adoption of the Constitution.

"Of this there can be no doubt. At the time of the ratification of the Articles of Confederation, all free native-born inhabitants of the States of New Hampshire, Massachusetts, New York, New Jersey, and North Carolina, though descended from African slaves, were not only citizens of those States, but such of them as had the other necessary qualifications possessed the franchise of electors on equal terms with other citizens.

"The Supreme Court of North Carolina, in the case of the State v. Manuel, (4 Dev. & Bab., 20), has declared the law of that State on this subject in terms which I believe to be as

sound law in the other States which I have enumerated, as it was in North Carolina."

In the State of North Carolina, at this period, the elective franchise was allowed

"To all persons possessed of a freehold in any town of this State, having a right to representation, and also all free men who have been inhabitants of any such town twelve months next before and at the day of election, and shall have paid taxes, shall be entitled to vote."

Judge GASTON, in the case of the *State* v. *Manuel*, just referred to, (2 Dev. & Bab. 20), declares, with respect to this early provision, that "it is a matter of universal notoriety that, under it, free persons, without regard to color, claimed and exercised the franchise, until it was taken from free men of color, a few years since, by our amended Constitution."

The change made in the amended Constitution of 1835 met with much opposition, and was effected by a vote of sixty-six to sixty-one; the general sentiment being based on the ground of the natural title of all men to equal rights.

It thus appears that freemen of color in North Carolina were deemed citizens of the State, and exercised the right of suffrage for more than half a century till, in 1835, it was taken from them. Nor does there appear to be any evidence produced, other than that of mere prejudice, to show why they should have ever been debarred of that privilege, where they possessed the necessary qualifications.

In the Constitution of the little State of Delaware, which evinces the patriotic sentiments of its citizens during the period of 1776, the Elective Franchise clause reads as follows:—

"That the right in the people to participate in the Legislature is the foundation of liberty and of all free governments; and for this end all elections ought to be *free* and *frequent;* and every free man, having sufficient evidence of a permanent common interest with and attachment to the community, hath a right of suffrage."

In the State of Maryland, in 1776, it was declared,

"That every man having property in, a common interest with, and an attachment to the community, ought to have the right of suffrage."

In accordance with this principle, it gave the right to "all freemen above twenty-one years of age," having a certain freehold or amount of property; and complaints were made that the free negroes, at one time, controlled the elections in Baltimore. But, in 1801 and 1809, amendments were passed which restricted the vote to every free *white* male citizen, in elections in the cities of Baltimore and Annapolis.

In the General Assembly of Virginia in 1777, in the first year of the Commonwealth, an act was passed for disciplining the militia, in which "The free mulattoes were employed as drummers, fifers, or pioneers. (Hening's Stat. at Large, vol. ix. p. 267). It was also made "not lawful to enlist any negro or mulatto into the service, until he produced a certificate from a justice of the peace that he was a free man." (9 Hen. 270, 280.)

In the preamble to an act passed in 1783, Chap. III., it recites that many slaves, during the war, "were enlisted into the army as *substitutes*, being *tendered as free men*, and that, on the expiration of the term of enlistment of such slaves, the former owners attempted to force them to return to a state of servitude, contrary to the principles of justice, and to their own solemn promise; * * * as it appears just and reasonable that all persons enlisted, who have faithfully served agreeably to the terms of their enlistment, and have thereby contributed *towards the establishment of American liberty and independence*, should enjoy the blessings of freedom as a reward for their toils; it was, therefore, enacted that all such should be held and deemed free, as if each of them were specially named in the act." (11 Hen. 308).

It thus appears that the colored freemen of Virginia took the oath of allegiance to the Commonwealth as citizens, were enrolled in their militia, were enlisted in the service of the United States, and, during the revolution, fought the battles of the country, and contributed towards the establishment of American liberty and independence.

In Massachusetts persons of color, descended from African slaves, were, by the Constitution, made citizens of the State, and such of them as had the necessary qualifications have held and

exercised the elective franchise, as citizens, from that time to the present. (See Conn. v. Aves., 18, Pick., k. 210.)

In the State of Pennsylvania, so identified with that of Massachusetts in all its philanthropic measures for the establishment of Liberty and universal freedom, and in the City of Philadelphia, where was signed the Declaration of Independence, which important event was announced to the world by the venerated bell, upon which is inscribed that passage from holy-writ: "Proclaim liberty throughout the land, unto all the inhabitants thereof;"—as early as 1682, WILLIAM PENN, the founder, promulgated "The Frame of Government" for Pennsylvania, under authority of the Charter granted him by King Charles II. In this document the right of suffrage is given, without restriction, to "*the freemen* of said province." (Conventions of Pennsylvania, page 20.) And in 1701 PENN granted what is known as the "Charter of Privileges," by which instrument the right of suffrage was broadly given to "*the freemen* of each respective county." (Ibid. page 31.)

The first Constitution of Pennsylvania was adopted in 1776; BENJAMIN FRANKLIN presided over the Convention. It gave the right of suffrage to "every freeman of the full age of twenty-one years."

In 1790 a new Constitution was framed, which also gave the right to vote to "*every freeman* over the age of twenty-one years."

"For one hundred and fifty-six years black men," says a contemporary, "if black there were, voted in Pennsylvania on precisely the same conditions as white men. None of the evils now predicted of black suffrage were experienced. Neither the mental nor social quality of the two races was thereby established. Amalgamation, either through matrimony or without, was not encouraged. Not a black man was made Governor or Judge, member of the Council or the Legislature. Social order was not subverted. The Government was not by white men, for white men, but by all men, for the benefit of all.

"In 1838 this democratic basis of government was overthrown, and the rights of suffrage restricted to white folks. That the State has been governed any better since then, no intelligent man will peril his reputation by asserting."

According to the Constitution of *New Hampshire* in 1784,—

"Every male inhabitant of each town and parish, with town privileges, and places unincorporated in this State, of twenty-one years of age and upwards, excepting paupers and persons excluded from paying taxes at their own request, shall have a right at the annual or other meetings of the inhabitants of said town and parishes, to be duly named and holden annually forever in the month of March, to vote in the town or parish wherein he dwells, for a Senator in the district whereof he is a member."

In the Constitution of New York, adopted in 1777, the following provision is found in the elective franchise clause:

"That every male inhabitant, of full age, who shall have personally resided in one of the counties of this State for six months immediately preceding the day of election, shall, at such election, be entitled to vote for Representatives of the said county in Assembly; if, during the time aforesaid, he shall have been a freeholder, possessing a freehold of the value of twenty pounds within the said county, or have rented a tenement therein of the yearly value of forty shillings, and have voted and actually paid taxes to this State." (See Constitution of New York, Art. II., Rev. Statutes, Vol. i. p. 126.)

In the Convention to amend their Constitution in 1821, which confined the right of suffrage to white citizens, Chanceller Kent said, "it deserved consideration whether such exclusion would not be opposed to the Constitution of the United States."

In the same debate, Mr. Rufus King, who had been a leading member in the Convention which formed the Constitution of the United States, said

"That a citizen of color was entitled to all the privileges of a citizen and entitled to vote; he comes here, he purchases property, he pays your taxes, conforms to your laws: how can you then, under the Act of the Constitution of the United States, exclude him?" (Rep. and Deb. of N. Y. Conven., 1821, p. 190, etc.)

The above amendment was modified by substituting the word "citizen" for the word "inhabitant," and provides that no man of color, unless he had been a citizen of the State for three years, and for one year next preceding any election, and possessed of a freehold estate valued at two hundred and fifty dollars above all debts, and paid a tax thereon, shall be entitled to vote. This amendment was carried, Kent, King and Van Buren voting in its favor.

CHAPTER VI.

Act of Congress 1778, fourth Article of Confederation—Attempt of South Carolina to introduce the word "White" into the Constitution and exclude free blacks from citizenship—Mr. Madison on Naturalization—Mr. Hamilton to Mr. Jay, on Negroes as Soldiers, etc.—Patrick Henry.

THE fourth of the fundamental articles of the Constitution is as follows:

"The free inhabitants of each of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all the privileges and immunities of free citizens in the several States."

"The fact that free persons of color were citizens of some of the several States, and the consequence that this fourth article of the Confederation would have the effect to confer on such persons the privileges and immunities of general citizenship," said Mr. Justice CURTIS, in his able argument in the case of *Dred Scott*, "were not only known to those who framed and adopted those articles, but the evidence is decisive that the fourth article was intended to have that effect, and that more restricted language, which would have excluded such persons, was deliberately and purposely rejected.

"On the 25th of June, 1778, the Articles of Confederation being under consideration by the Congress, the delegates from South Carolina moved to amend this fourth article, by inserting after the word "free," and before the word "inhabitant," the word "white," so that the privileges and immunities of general citizenship would be secured only to white persons. Two States voted for the amendment—South Carolina being one of them—eight States against it, and the vote of one State was divided. The language of the article stood unchanged, and both by its terms of inclusion, "free inhabitants," and the strong implication from its terms of exclusion, "paupers, vagabonds and fugitives from justice," who alone were excepted, it is clear that, under the Confederation, and at the time of the adoption of the Constitution, free colored persons of African descent might be, and, by reason of their citizenship in certain States, were entitled to the privileges and immunities of general citizenship of the United States.

"Did the Constitution of the United States deprive them or their descendants of citizenship?

"That Constitution was ordained and established by the people of the United States, through the action in each State of those persons who were qualified by its laws to act therein, in behalf of themselves and other citizens of that State. In some of the States, as we have seen, colored persons were among those qualified by law to act on the subject. The colored persons were not only included in the body of the people of the United States, 'by whom the Constitution was ordained and established,' but in at least five of the States they had the power to act, and doubtless did act, by their sufferages, upon the question of its adoption. It would be strange if we were to find in that instrument anything which deprived of their citizenship any part of the people of the United States who were among those by whom it was established."

"I can find nothing in the Constitution which, *proprio vigoer*, deprives of their citizenship any class of persons who were citizens of the United States at the time of its adoption, or who should be native-born citizens of any State after its adoption; nor any power enabling Congress to disfranchise persons born on the soil of any State, and entitled te citizenship of such State by its Constitution and laws. And my opinion is, that under the Constitution of the United States, every free person born on the soil of a State, who is a citizen of that State by force of its Constitution or laws, is also a citizen of the United States."

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"It has been often asserted that the Constitution was made exclusively by and for the white race. It has already been shown that in five of the thirteen original States, colored persons then possessed the elective franchise, and were among those by whom the Constitution was ordained and established. If so, it was not true in point of fact, that the Constitution was exclusively for the white race, is, in my opinion, not only an assumption not warranted by anything in the Constitution, but contradicted by its opening declaration that it was ordained and established by the people of the United States, for themselves and their posterity. And as free colored persons were then citizens of at least five States, and so in every sense part of the people of the United States, they were among those for whom and whose posterity the Constitution was ordained and established.

"Again, it has been objected, that if the Constitution has left to the several States the rightful power to determine who of their inhabitants shall be citizens of the United States, the States may make aliens citizens.

"The answer is obvious. The Constitution has left to the States the determination what persons born within their respec-

tive limits shall acquire by birth citizenship of the United States; it has not left to them any power to prescribe any rule for the removal of the disabilities of alienage. This power is exclusively in Congress.

"It has been further objected, that if free colored persons, born within a particular State, and made citizens of that State by its Constitution and laws, are thereby made citizens of the United States, then, under the second section of the fourth article of the Constitution, such persons would be entitled to all the privileges and immunities of citizens in the several States; and if so, then colored persons could vote, and be eligible to not only Federal offices, but offices even in those States whose Constitutions and laws disqualify colored persons from voting or being elected to office.

"But this position rests upon an assumption which I deem untenable. Its basis is, that no one can be deemed a citizen of the United States who is not entitled to enjoy all the privileges and franchises which are conferred on any citizen. (See 1 Lit. Kentucky R. 326.) That this is not true, under the Constitution of the United States, seems to me clear.

"A naturalized citizen cannot be President of the United States, nor a Senator till after the lapse of nine years, nor a Representative till after the lapse of seven years, from his naturalization. Yet, as soon as naturalized, he is certainly a citizen of the United States. Nor is any inhabitant of the District of Columbia, or of either of the Territories, eligible to the office of Senator or Representative in Congress, though they may be citizens of the United States. So in all the States, numerous persons, though citizens, cannot vote, or cannot hold office, either on account of their age, or sex, or the want of the necessary legal qualifications. The truth is, that citizenship, under the Constitution of the United States, is not dependent on the possession of any particular political or even of all civil rights; and any attempt so to define it must lead to error. To what citizens the elective franchise shall be confided, is a question to be determined by each State, in accordance with its own views of the necessities or expediencies of its condition. What civil rights shall be enjoyed by its citizens, and whether all shall enjoy the same, or how they may be gained or lost, are to be determined in the same way.

"It has sometimes been urged that colored persons are shown not to be citizens of the United States, by the fact that the naturalization laws apply only to white persons. But whether a person born in the United States be or be not a citizen, cannot depend on laws which refer only to aliens, and do not effect the

status of persons born in the United States. The utmost effect which can be attributed to them is, to show that Congress has not deemed it expedient generally to apply the rule to colored aliens. That they might do so, if thought fit, is clear. The Constitution has not excluded them. And since that has conferred the power on Congress to naturalized colored aliens, it certainly shows color is not a necessary qualification for citizenship under the Constitution of the United States. It may be added, that the power to make colored persons citizens of the United States, under the Constitution, has been actually exercised in repeated and important instances. (See Treaties with the Choctaws, of September 27, 1830, Article 14; with the Cherokees, of May 23, 1836, Art 12; Treaty of Gaudaloupe Hidalgo, Feb. 2, 1848, Article 8.)"

In regard to the question, who are citizens of the United States, Mr. Madison remarks: (Fed., No. XLII. p. 335.)

"That the dissimilarity in the rules of naturalization has long been remarked as a fault in our system, and as lying a foundation for intricate and delicate questions. In the fourth article of the confederation, it is declared, 'that the *free inhabitants* of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of *free citizens* in the several States; and *the people* of each State shall, in every other, enjoy all the privileges of trade and commerce,' &c. There is a confusion of language here, which is remarkable. Why the terms *free inhabitants* are used in one part of the article, *free citizens* in another, and *people* in another; or what was meant by superadding to 'all privileges and immunities of free citizens'—'all the privileges of trade and commerce,' cannot easily be determined. It seems to be a construction scarcely avoidable, however, that those who come under the denomination of *free inhabitants* of a State, although not citizens of such State, are entitled, in every other State, to all the privileges of *free citizens* of the latter; that is, to greater privileges than they may be entitled to in their own State: so that it may be in the power of a particular State, or rather every State is laid under a necessity, not only to confer the rights of citizenship in other States upon any whom it may admit to such rights within itself, but upon any whom it may allow to become inhabitants within its jurisdiction. But were an exposition of the term 'inhabitants' to be admitted, which would confine the stipulated privileges to citizens alone, the difficulty is diminished only, not removed. The very improper power would still be retained by each State, of naturalizing aliens in every other State. In one State,

residence for a short term confers all the rights of citizenship; in another, qualifications of greater importance are required. An alien, therefore, legally incapacitated for certain rights in the latter, may, by previous residence only in the former, elude his incapacity; and thus the law of one State be preposterously rendered paramount to the law of another, within the jurisdiction of the other.

"We owe it to mere casualty, that very serious embarrassments on this subject have been hitherto escaped. By the laws of the several States, certain description of aliens, who had rendered themselves obnoxious, were laid under interdicts inconsistent, not only with the rights of citizenship, but with the privileges of residence. What would have been the consequence, if such persons, by residence or otherwise, had acquired the character of citizens under the laws of another State, and then asserted their rights as such, both to residence and citizenship, within the State proscribing them? Whatever the legal consequences might have been, other consequences would probably have resulted of too serious a nature not to be provided against. The new Constitution has accordingly, with great propriety, made provision against them, and all others proceeding from the defect of the confederation on this head, by authorizing the general government to establish an uniform rule of naturalization throughout the United States."

In a letter from Mr. HAMILTON, of March 14, 1779, addressed to Mr. JAY, then President of Congress, in which it appears that the Southern States were unable to raise a sufficient force of troops, without resorting to the negro population, he says:—

"I have frequently heard it objected to the scheme of embodying negroes, that they are too stupid to make soldiers. This is so far from appearing to me a valid objection, that I think their want of cultivation (*for their natural faculties are as good as ours*), joined to that habit of subordination which they acquire from a life of servitude, will enable them sooner to become soldiers than our white inhabitants. Let officers be men of sense and sentiment, and the nearer soldiers approach to machines, the better.

"I foresee that this project will have to combat much opposition from prejudice and self-interest. The contempt we have been taught to entertain for the blacks makes us fancy many things that are founded neither in reason nor experience; and an unwillingness to part with property of so valuable a kind,

will furnish a thousand arguments to show the impracticability or pernicious tendency of a scheme which requires such sacrifices. * * * * * * * *
An essential part of this plan is to give them their freedom with their swords. This will secure their fidelity, animate their courage, and, I believe, will have a good influence upon those who remain, by opening a door to their emancipation." *

On the 29th March, 1779, the committee, consisting of Mr. Burke, Mr. Laurens, Mr. Armstrong, Mr. Wilson, and Mr. Dyer, appointed to take into consideration the circumstances of the Southern States, and the ways and means of their safety and defence, referring to the negroes of the States of South Carolina and Georgia, reported:—

"That the state of the country, and the great numbers of these people among them, expose the inhabitants to great danger from the endeavors of the enemy to excite them to revolt or desert. That it is suggested by the delegates of the said States, and by Mr. Hugar, that a force might be raised in the said State from among the negroes, which would not only be formidable to the enemy, from their numbers, and the discipline of which they would very readily admit, but would lesson the danger from revolts and desertions, by detaching the most vigorous and enterprising from among the negroes. * * * * The United States ought to defray the expenses of said negroes. * * * That every negro, who shall well and faithfully serve as a soldier to the end of the war, shall be emancipated, and receive the sum of fifty dollars." (Secret Jour. of Old Congress, vol. i. p. 104.)

At the time these subjects were under consideration in the State of Virginia, that eminent and noble-hearted patriot and illustrious orator, PATRICK HENRY, said:—

"Is it not surprising that at a time when the rights of humanity are defined with precision in a country above all others fond of liberty—that, in such an age, and in such a country, we find men, professing a religion the most humane and gentle, adopting a principle as repugnant to humanity as it is inconsistent with the Bible and destructive to liberty? Believe me, I honor the Quakers for their noble efforts to abolish slavery. Every think-

* Works of Hamilton, vol. i. pp. 76, 77.

ing, honest man regrets it in speculation, yet how few in practice from conscientious motives. Would any man believe that I am master of *slaves* of my own purchase? I am drawn along by the general inconvenience of living without them. I will not, I cannot justify it. For however culpable my conduct, I will so far pay my devoir to virtue as to own the excellence and rectitude of her precepts, and to lament my own non-conformity to them."

When discussing the Constitution upon the subject of apportionment, Mr. Hamilton remarked:—

"The Federal Constitution decided with great propriety on the case of slaves, when it viewed them in the mixed character of persons and of property, for such was, in fact, their true character. But," said he, "if the laws were to restore the rights which have been taken away, *the negroes could no longer be refused an equal share of representation with the other inhabitants.*" (Fed. 417, 418.)

CHAPTER VII.

Bill of Rights first established by Hungary—South Carolina the first State that introduced the word "White" into their Constitution, in 1778—Political rights of the negro considered—Social prejudices.

It was to secure the people against tyranny and oppression in the early part of the thirteenth century, that the patriotic people of Hungary—the land of Kossuth—enunciated the first Bill of Rights that was ever written. This example was followed a few years later by the people of England, who extorted from King John that great platform of civil liberty, the *Magna Charta.*

The fundamental principle of the Declaration of Independence is of the same tenor—*equal rights to all.* It contains not

a word nor a clause regarding color. Nor is there any provision of the kind to be found in the Constitution of the United States, or either of the Constitutions of the original thirteen States, even including the State of South Carolina, until the year 1778, when the word "white" was inserted in their amended Constitution. In this, as well as in all other acts of inhuman barbarism and oppression against the citizens of the Union, she has been the instigator and leader; and for which acts she will sink down to future posterity with ignoble and unenviable fame.

If the mere question of a state of slavery was the apology for depriving the black man of the rights of suffrage because he was considered in the light of property—if we trace back our ancestors to England, and to the Feudal age, we learn that a majority of the ancient Britons were held in a state of servitude more degrading in many respects than was that of the colored population of the Southern States; and under the Roman Republic, the native Greek, the Briton, the Moor, and the Ethiopian, were all alike held in virtual bondage.

If color is the objection to the black man, it is a very poor criterion by which to judge of intellect, notwithstanding the many futile arguments which have been raised to prove to the contrary. "The *contour* of the countenance which the Creator has stamped on human beings, does not give one class the right to inflict wrong and injury upon another. It does not give us the right to say to one class that we have rights which are natural, and inalienable, and to another class, 'You are deprived of those rights.'"

If negro suffrage, in the very organization of the Republic, was considered expedient and in accordance with the principles of right and justice by our ancestors, why not so at the present period? Has the native negro retrograded in character or intellect by having daily business intercourse with the white population? We can discover no evidences to prove it. On the contrary, there has been an improvement in his whole mental condition. Whatever education he possesses it is necessarily an American education. In America he was born and reared. All he knows of civilization is American civilization—and it may also be appropriately added—American Barbarism.

Does the objection to the colored man arise from social prejudices? Prejudices exist in all ranks and grades of society, and must ever so exist. It arises from the peculiar condition and habits of the people. It is to be found particularly among our foreign population, on their first arrival into the country. Language, customs, habits and nativity, incline them to clan together until they become familiarized with the new order of things. This, however, does not debar them from the rights of citizenship, or from their political rights at the proper period, when they can maintain them as citizens of the country of their adoption. While we admit that the distinction between the colored race and the white race is marked and definite, yet we can see no reason why the one who is a native born subject should be deprived of the political rights of suffrage allowed to an alien, simply on account of his complexion; especially, if compelled to bear the burdens of taxation and otherwise aid and assist in the defense and maintenance of his native country.

Is social equality with the white population, the objection?

Granting the negro the right of suffrage does not necessarily bring him upon an equality with the white population, any more than any other right he may or does possess to protect either his person or property, or to procure his means of livelihood, in the same manner as the white citizen. All the various industrial branches are carried on by the colored population among themselves; and it may be argued with equal plausibility, that because a white man was a mechanic or artizan, a colored man should be debarred from any such privileges. Such reasoning is too trivial to be entertained, either in the light of human justice or common sense.

The right of suffrage should be extended to every native-born or adopted male citizen of the United States, of the age of twenty-one years,—who is not otherwise disqualified,—and who has sufficient knowledge to read the Constitution, and intelligence to comprehend the principles of the Government, either intuitively, or by his own study of the subject..

CHAPTER VIII.

Patriotism of the negroes of the Revolutionary war—Mulatto Attucks in Boston—Negro Salem at Bunker Hill—Remarks of late Hon. Edward Everett—Mr. Forten of Philadelphia—Charles Pinckney of South Carolina—Proclamation of Gen. Jackson at New Orleans.

WHATEVER laws may have prevailed at an earlier period, or whatever they may be even at the present time relative to the colored population of the Union, it cannot be denied that they possess,—in the majority of the States at least,—rights as dear to them as to the white citizens. They are the owners of real as well as personal property, and have an equal interest in the welfare of the States, the Union and the National Government and its flag, under whose folds they were born and reared. They have volunteered their services—entered into the combat, and fought as valiantly for the defense and preservation of our National rights and liberties as they have for their own, side by side with their white fellow-citizens, from the days of the revolution under Washington, down to the present hour. The first blood spilled in that cause was that of the mulatto ATTUCKS, in King Street (State street) Boston, on the memorable night of the 15th of March, 1770, who led the people on that eventful occasion.

It was the black soldier SALEM who slew the British Major PITCAIRN, at the battle of Bunker Hill, on the 17th of June, 1775. When that officer mounted the works and exclaimed "the day is ours," Salem shot him through, and he fell into the arms of his agonized son, who bore him to the boats at the foot of the hill. For this valiant act a contribution was made in the army for the colored soldier, and he was presented to Washington as having performed this feat.

Major Pitcairn, it will be recollected, had command of the troops, and caused the first effusion of blood at Lexington; at which time his horse was shot under him, while he was separated from his troops. Says the narrator of that event,—"with presence of mind, he feigned himself slain; his pistols were taken from his holsters and he was left for dead, when he seized the opportunity

and escaped." He next appeared at Bunker Hill, to pay the penalty with his life in the cause of tyranny and oppression.

The late Hon. EDWARD EVERETT, in his oration on the erection of the "Warren Monument" to commemorate the heroes of that day, alluded to the above incident as follows:

"It is the monument of the day of the event of the battle of Bunker Hill; of all the brave men who shared its perils—alike of Prescott and Putnam and Warren—the chiefs of the day, and the colored man Salem, who is reported to have shot the gallant Pitcairn as he mounted the parapet. Cold as the clods on which it rests; still as the silent Heaven to which it soars, it is yet vocal, eloquent in their *undivided* praise. Till the ponderous and well compacted blocks of granite, which no force but that of an earthquake will heave from their bearings, shall fall asunder, it will stand to the most distant posterity, a grand, impartial illustration (nature's own massive lithography) of the noble page, second to no other in the annals of America, on which history shall write down the names and the deeds of the seventeenth of June, 1775."

Numerous are the instances of the heroic acts of bravery performed by the blacks during the revolutionary war, the war of 1812, as well as the recent Rebellion.

The celebrated Mr. FORTEN, (colored) of Philadelphia, who had been a soldier in the Revolution, and was a prisoner on the old Jersey prison-ship, says:

"He saw the regiments from Rhode Island, Connecticut and Massachusetts, when they marched through Philadelphia to meet Cornwallis, who was then overrunning the South, and said that one or two companies of colored men were attached to each. The vessels of war of that period were all, to a greater or less extent, manned by colored seamen. On board the Royal Louis, on which Mr. Forten enlisted, there were twenty colored seamen."

The celebrated CHARLES PINCKNEY, Esq., of South Carolina, in his speech on the Missouri question, alluded to the colored people as follows:—

"At the commencement of our revolutionary struggle with Great Britain, all the States had this class of people. The New England States had numbers of them; the Northern and Middle States had still more, although less than the Southern. They all entered into the great contest with similar views. Like

brethren, they contended for the benefit of the whole, leaving to each the right to pursue its happiness in its own way. Thus they nobly toiled and bled together, really like brethren. * * They were, in numerous instances, the pioneers, and, in all, the laborers of your armies. To their hands were owing the erection of the greatest part of the fortifications raised for the protection of our country. *Fort Moultrie* gave, at an early period of the inexperience and untried valor of our citizens, immortality to American arms. And, in the Northern States, numerous bodies of them were enrolled, and fought, side by side with the whites, the battles of the revolution."

General JACKSON, after the famous battle of New Orleans, which gained him so much renown, in his proclamation from his headquarters, at Mobile, appealed to the colored men in the following language:—

"Through a mistaken policy, you have heretofore been deprived of a participation in the glorious struggle for national rights in which *our* country is engaged. This no longer shall exist. As sons of *freedom*, you are now called upon to defend our most inestimable blessings. As *Americans*, your country looks with confidence to her adopted citizens for a valorous support, as a faithful return for the advantages enjoyed under her mild and equitable government. As fathers, husbands and brothers, you are summoned to rally around the standard of the eagle to defend all which is dear in existence."

* * * * * * *

Again:—

"SOLDIERS! When, on the banks of the Mobile, I called you to take up arms, inviting you to partake of the perils and glory of *your white fellow-citizens*, *I expected much of you;* for I was not ignorant that you possessed qualities most formidable to an invading enemy. I knew with what fortitude you could endure hunger and thirst, and all the fatigues of a campaign. *I knew well how you loved your native country*, and that you, as well as ourselves, had to defend what *man* holds most dear—his parents, wife, children, and property. *You have done more than I expected.* In addition to the previous qualities I before knew you to possess, I found in you a noble enthusiasm which leads to the performance of great things."

CHAPTER IX.

Duty of every citizen to acquire a knowledge of the Constitution—Customs of the Roman Republic and of the early English Government—On what the stability of government depends—Opinion of John Quincy Adams—Importance of educating the ignorant Southern classes the great question at issue.

THE first duty incumbent upon every citizen in the community is to acquire a thorough knowledge of the Constitution and the Government under which he lives. By the unlettered yet intelligent mind, this knowledge may be acquired in some degree, by experience. In the present age, however, when the advantages of an ordinary education, at least, is free to all classes of the youths of the land, excepting in the late Slave States, there is no apology for any individual who has arrived at maturity, for not having acquired the art of reading and writing, or the rudiments of learning sufficiently to enable him to comprehend the principles of the Government—the duties he owes to it, and the rights and privileges he possesses under it, without being subject to the necessity of relying on designing demagogues to teach him the application or exercise of them.

During the flourishing days of the Roman Republic, the boys were obliged to learn by heart the twelve tables of statutes, in order to imprint upon their youthful minds an early knowledge of the laws and constitution of their country. And in the early period of the English government the *Magna Charta* was required, by the British Statute, to be read in all the Cathedral Churches twice a year, for the information of the people and the preservation of their liberty. Yet, in our own country, there is no statute provision for the general education of the youths, to qualify them, as they approach to manhood, to discharge, advantageously to themselves and with justice to their fellow-citizens, the political duties which they are destined to assume. Consequently, if they acquire any of this knowledge it is by general observation, rather than by any systematic training; excepting in the higher seminaries, or where it is occasionally introduced into the common schools.

The stability of government depends upon the veneration in

which it is cherished, and on the ability to distinguish between the chicanery of intriguing demagogues and the patriotic motives of honest-hearted statesmen.

Said one of the ablest statesmen and patriots our country ever possessed—the late JOHN QUINCY ADAMS—in an oration before the Historical Society of New York:—

"Fellow-citizens, the Ark of your Covenant is the *Declaration of Independence.* Your Mount Gerizim is the CONSTITUTION OF THE UNITED STATES. There is not a blessing or a curse which you may not enjoy or suffer from your adherence to or departure from the principles of the Constitution. Lay up these principles in your hearts. Teach them to your children when sitting in your houses or walking by the way; when rising up or lying down. Write them upon the door-posts of your houses; cling to them as the issues of your life."

In a speech upon the suffrage question in Congress, during the year 1842—alluding to William Costin, a free colored man, who had been porter in the Bank of Washington, D. C., for twenty-four years, in which capacity he maintained so excellent a character for integrity and punctuality, that, on his sudden death, the officers of the Bank unanimously passed a resolution expressive of the highest respect for his memory, and that he possessed their unlimited confidence, and in no instance was there ever discovered the slightest defalcation—Mr. Adams remarked that, "though Costin was not white, he was as much respected as any man in the District; and the large concourse of citizens that attended his remains to the grave—as well white as black—was an evidence of the manner in which he was estimated by the citizens of Washington. Now, why should such a man as that be excluded from the elective franchise, when you admit the vilest individuals of the white race to exercise it?"

It has ever been through the ignorance of a large class of the people of the true principles of the Constitution and Government, that demagogues have succeeded in accomplishing their designs, by appealing to them as a balance of power. It was through the ignorance of the people of the Southern States that the leaders of the late rebellion succeeded in getting their only supporters and strength in the attempted overthrow of the

Government. On the contrary, it was through the education and intelligence of the loyal people of the Northern States, that they succeeded in overpowering these enemies of the Union.

The momentous subject of importance then, connected with the present condition of the late slave population, is to prepare their minds for the new position they are to occupy as free citizens of the Republic, and the duties and responsibilities that will be imposed upon them as such.

It is the education of the ignorant Southern classes of the people, therefore, irrespective of color, in their political rights and duties, which is the important and vital question at issue. What method shall be adopted for the accomplishment of this great object, whether by an act of the general Government, or by those of the several State Governments, is a subject for further consideration. As before remarked, there is no apology, at this age, for the young men of the country, who have received a common education, to plead ignorance upon these points. No citizen, who will not inform himself upon these important duties and responsibilities, should be permitted to vote away the rights and liberties of his fellow-citizens, and thereby endanger our sacred institutions.

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